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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/204,888	12/03/1998	CHARLES A. ELDERING	8887.3002	9427

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EXAMINER

BUI, KIEU OANH T

ART UNIT PAPER NUMBER

2611

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/204,888	Applicant(s) ELDERING ET AL.	
	Examiner KIEU-OANH T BUI	Art Unit 2611	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: Please see the attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 98-101, 107-113.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


HAI TRAN
PRIMARY EXAMINER

Response to After Final Arguments

Applicants argue that Alexander does not suggest to include “heuristic rules” and so on; however, the Examiner clearly states that within the step of “retrieving heuristic rules associated with at least some subset of the subscriber interactions” Alexander teaches that profile program “learns” or performs “sophisticated analysis” (col. 29, line 55 - col. 30, line 44), wherein the heuristic rules associate subscriber television viewing habits (col. 28/lines 30-67 as how many times the viewer selects or changes channels and etc.) and non-television viewing characteristics about the subscriber (col. 30, lines 38-44, wherein the profile of others include demographic characteristics or non-television viewing characteristics, e.g., viewer’s sense of humor, chronological age, activity age, whether the user has kid or not, and/or having pets or not, see col. 30/lines 17-37).

In addition, it is very clear that the Examiner was not confused or misunderstood between the “heuristic rules” and “user profiles” as argued by Applicant. Alexander states clearly that the collection of viewer profile can be done by the EPG requests the viewer profile from the viewer, but if the viewer declines to provide the requested information, the system can record the viewer’s actions and interactions with the programs and/or via the Internet. This is a strong and valid proof that the Alexander’s system is monitoring the user or viewer’s habits or actions for gathering or generating the viewer profile, which exactly equivalent to as “heuristic rules which predict demographic characteristics about the subscriber...”, for example, the system can record and know the user’s query criteria for Internet search, the items selected and interactions with the web sites, so that the appropriate ads can be targeted or even when there is an absent interaction

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between the viewer and the television or the EPG (Alexander, col. 28/line 30 to col. 29/line 11)
as explained and discussed earlier in the final office action.

Yet Alexander does not further mention “program genre to income level, and program genre to gender”; however, in the same environment of providing program services to users based on monitoring the user’s habits for generating the user profile (emphasis added) or “heuristic rules” as explained, Sitnik further teaches to include collecting sex and gender during monitoring the viewer’s habits for generating viewer profiles, i.e., the yearly income level, personal preferences, and personal habits (col. 1/line 58 to col. 2/line 4 for an example of appropriate images and programs to children under the age of thirteen; Fig. 3, and col. 7/line 40-57, col. 2/lines 26-34 for monitoring the viewer’s habits for generating the viewer profile & col. 8/line 53 to col. 9/line 4). Therefore, the combination of Alexander and Sitnik is perfectly proper and valid because the income level and the gender are simply additional/or other attributes in the monitoring the viewer’s habits or actions/interactions in defining or predicting the demographic characteristics of preferred group of peoples for the broadcasters or advertisers to target appropriate users.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., heuristic rules may be logical rules or may be rules expressed in terms of conditional probabilities and corresponding examples on paragraph 2 of page 9 of the amendment) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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Therefore, the Examiner disagrees with the Applicants' arguments and stands with the disclosure and teaching of Alexander and Sitnik as previously disclosed and now revised with discussion in this Advisory action.

Krista Bui
AU 2611
Dec. 28, 2004



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PRIMARY EXAMINER